

CRIMINAL RULES

RULE 1. APPLICABILITY AND SUSPENSION OF RULES

1.01 Former Rules Void

All former rules of local practice, except as readopted herein, are void.

1.02 Applicability

Each rule is applicable in all General Sessions Court proceedings in Davidson County, Tennessee. Each rule is applicable in all types of cases unless otherwise indicated by a particular rule.

1.03 Suspension of Rules

Whenever the Court determines that justice requires it, the Court may suspend any of these rules.

1.04 Proper Attire

All parties, including counsel and witnesses, shall dress appropriately for court.

RULE 2. APPEARANCE OF COUNSEL

2.01 Counsel of Record; Entry of Appearance

Counsel must be licensed in Tennessee in order to practice law or represent others. An unlicensed person will not be permitted to represent another party in the General Sessions Courts of Davidson County.

Whenever a defendant in a criminal case is determined by the Court to be indigent and/or a conflict with the Public Defender representing co-defendant(s) is determined, an order shall be signed by the Judge appointing counsel and setting forth the indigency finding and identifying the appointed counsel. Appointed counsel shall continue to represent the defendant by order of the court of competent jurisdiction.

All counsel who have entered an appearance in a case will be counsel of record. Counsel shall enter an appearance at the earliest practicable time by notifying opposing counsel and the clerk's office in writing. A motion for a set-aside order shall be considered an appearance.

2.02 Withdrawal of Counsel

No attorney may be allowed to withdraw except for good cause and by leave of Court upon motion after notice to the defendant and the office of the District Attorney General.

2.03 Conduct of Counsel

During trial, counsel shall not exhibit familiarity with witnesses or opposing counsel and shall not use first names for adults. Counsel, parties and witnesses shall be expected to conduct themselves with appropriate decorum at all times in the courtroom.

When addressing the Court, counsel shall introduce herself/himself to the Court.

Counsel shall stand while examining witnesses, addressing the Court, or making objections.

Counsel who anticipate being late for Court shall promptly notify the clerk of the Court.

Counsel shall not announce being ready for trial unless the defendant is present or, in the case of the Assistant District Attorney, he/she is assured of the immediate availability of the prosecution's witnesses.

RULE 3. TRIAL CALENDAR (RESERVED)

RULE 4. SETTING CASES

4.01 Setting of Cases

Cases shall be tried on the date they are set on the Court's docket, unless, for good cause shown or upon agreement of the parties, the Court resets them for trial at a later date or continues them to a specific date.

RULE 5. CONTINUANCES

5.01 Continuances

Continuance orders must be filed in the clerk's office no later than five (5) business days prior to the Court date. Said orders may be obtained in the clerk's office and signed by a Judge. A copy must be delivered by facsimile or by hand to the Assistant District Attorney General's office.

There shall be no continuances beyond the first trial date or hearing date without an agreement of the State or by permission of the Court upon a showing of good cause.

RULE 6. SET-ASIDE ORDERS

6.01 Criminal Set-aside Orders

Set-aside orders may be obtained in the office of the Criminal Court Clerk at the Metropolitan Courthouse. Any Judge, for good cause shown, may sign same if the statutory conditions are met and if the defendant has had no previous charge of failure to appear on the referenced warrant.

Cases are to be reset on a trial docket appropriate to the offense.

Executed set-aside orders shall be filed with the clerk's office by the party seeking the order.

The set-aside order shall be signed by the attorney or by the defendant, if the defendant is *pro se*, requesting the set-aside order with the reset date, and a copy shall be delivered to the District Attorney's office.

Any attorney requesting a set-aside order shall become attorney of record and marked on the warrant accordingly.

Set-aside orders may be obtained for good cause shown in the office of the Criminal Court Clerk. Any Judge may agree to sign same if the following conditions are met and if the defendant has had no previous charge for failure to appear on the referenced warrant:

1. If defendant has been released on ROR or an SI bond, a bond must be made; or
2. If a defendant has been released on Pretrial, a Pretrial officer must verify in person, by telephone, facsimile, or e-mail that Pretrial will stay on the bond; or
3. If a defendant posted a bond through a bonding company, a written statement from the bonding company certifying they will remain on the bond pursuant to the original bond agreement with the defendant must be present with the referenced warrant at the time the set-aside is requested; this statement may be transmitted to the Court via a facsimile transmission to the clerk 's office.

A set-aside order will be granted absent the above conditions, provided the defendant can furnish the following proof:

1. Statement from a licensed medical doctor giving the nature of the illness at the time of the defendant's arraignment or court date; or
2. Obituary listing the next of kin; or
3. Proof of being incarcerated at the time of arraignment or court date, acceptable proof to include e-mail, telephone, or any other electronic communication from the facility verifying the incarceration.

6.02 Set-Aside Orders

Anyone requesting that a judge sign a ***second*** criminal set-aside order for a person who has forfeited the initial criminal set-aside order must return to the General Sessions Court Judge who originally signed the ***first*** set-aside order. Said judge is the only person authorized to sign same.

Further, if an attorney is requesting said set-aside order, a copy of same shall be delivered to the bondsman (if applicable) and to the Office of the District Attorney General. If a bondsman is requesting said set-aside order, a copy of same shall be delivered to the attorney of record (if applicable) and to the Office of the District Attorney General.

Cases are to be reset on a trial docket appropriate to the offense.

RULE 7. RETIRED CASES

7.01 Retired Cases

If the District Attorney's office files a motion to reinstate the prosecution of a retired case, a copy of such motion shall be sent to both the defendant and any defense attorney of record giving a 10-day notice of the hearing of such motion. The copy of the motion sent to the defendant shall be sent by certified mail, return receipt requested.

Upon a case being placed on retired status, any defense counsel of record may move to be relieved as counsel of record for any further proceedings.

Upon motion of the defendant, or upon a retired case coming on for a scheduled review, a criminal case which has been retired or inactive for a period of one (1) year shall be dismissed by the Judge of the Court in which the case was retired or placed on inactive status, at the expiration of that year.

RULE 8. EXPUNGEMENT ORDERS

8.01 Expungement of Dismissed Criminal Cases

All orders of expungement shall be initiated through the Criminal Court Clerk's Office effective October 1, 1998. An overnight delivery of Orders of Expungement along with an executed copy of the warrant(s) will be left with the administrative staff for signature of the appropriate Judge. The administrative staff will be responsible for obtaining the Judge's signature and returning said expungement order(s) to the delivery person to return to the Criminal Court Clerk's Office. It will be the responsibility of the Criminal Court Clerk's Office to notify the attorney or defendant after the Judge has executed the order for filing purposes.

8.02 Expungement of Retired Cases

When a party seeks expungement of a case that was previously retired by the Court, a Motion to Dismiss must be simultaneously filed with the Order of Expungement along with an executed copy of the warrant(s) to be expunged, unless the case was scheduled for review by the Court when it was retired. A motion to dismiss may not be made until one (1) year after the case was retired unless otherwise specified on the warrant at the time the case was retired.

The order of expungement may be signed by the judge on whose docket the motion to dismiss is set, or when the case comes on for a scheduled review; the order need not be entered by the judge who made the original disposition of the case.

8.03 Expungement of Cases Pursuant to T.C.A. Sec. 40-35-313

When a party seeks expungement of a case pursuant to T.C.A. Sec. 40-35-313, a Motion to Dismiss must be simultaneously submitted with notice to the District Attorney's office accompanied by written proof that all requirements have been successfully completed; alternatively, if a case was set for further review by the Court at the time of the original disposition, a motion to dismiss is not required.

If an Agreed Order is not submitted to the Judge for signature, the Motion shall be placed on the docket by the requesting attorney or defendant.

The order of expungement may be signed by the judge on whose docket the motion to dismiss is set, or when the case comes on for a scheduled review; the order need not be entered by the judge who made the original disposition of the case.

After an Order is signed, the attorney or defendant shall file the order with the Criminal Court Clerk's office.

RULE 9. PETITION TO SUSPEND OR MODIFY

9.01 Scheduling Petition to Suspend or Modify

Any petition to suspend or modify a sentence must have a Court date and time such petition is expected to be heard and must, in all cases, be set before the original sentencing Judge. A copy of the petition must be sent to the Office of the District Attorney at least five (5) business days prior to the scheduled hearing date. If the petition does not include the Court date and time, the clerk will not set the petition on the docket.

RULE 10. PLEA AGREEMENTS

10.01 Plea Agreements - Criminal Bond Dockets

All plea agreements shall be accompanied by a written plea agreement which may consist of the original warrant with the appropriate language reflecting the disposition of the case.

If the defendant is *pro se*, then the defendant shall execute a written waiver of counsel form which shall be kept with the original warrant(s).

RULE 11. ORDERS OF PROTECTION

11.01 Petitions for Orders of Protection

Petitions for *Ex Parte* Orders of Protection are to be filed with the Judicial Commissioner in Night Court who shall issue the *Ex Parte* Order if the allegations meet statutory requirements. All applications shall be sent to the General Sessions Civil Clerk's office for service of process and setting for hearing.

RULE 12. BAIL

12.01 Detention without Permitting Bond

A Judicial Commissioner may use discretion as to the setting of bail, but a reasonable bail shall be set within a reasonable time in all cases except for Capital offenses where the proof is evident or the presumption great, in which case the defendant may be held without bail.

The practice of hold for "open court" is prohibited except when a defendant is being detained awaiting transportation to another judicial district within the State or awaiting extradition.

12.02 Duration of Capias

Any capias issued pursuant to a forfeit, either conditional or final, shall remain in effect until the defendant is apprehended and returned to custody and a disposition is made of the case.

All other capiases shall expire after six (6) months from issuance and may be reissued after that time.

12.03 Surrender by Bond Companies

Any surrender of a defendant by a bonding company shall be in compliance with T.C.A. Sec. 40-11-130 through Sec. 40-11-137.

The following procedures are to be followed for the surrender of a defendant by means of a certified copy of the defendant's bond where no capias has been issued for the defendant's arrest:

1. This procedure only applies to those cases where a professional bondsman or Pretrial Release surrenders a defendant on a certified copy of the defendant's bond and where no capias has been issued for the defendant's arrest.
2. Any professional bondsman who intends to surrender a defendant on a certified copy of the defendant's bond may take the defendant to the Judicial Commissioner on duty in Night Court who shall sign the certified copy of bond and issue a mittimus committing the defendant to the Metropolitan Sheriff. Alternatively, the bondsman may surrender the defendant directly to the custody of the Metropolitan Sheriff.
3. At the same time the mittimus is delivered to the Metropolitan Sheriff, the Judicial Commissioner shall also deliver to the surrendered defendant, if the surrendered defendant is present, a "Notice to Surrendered Defendant" which notice shall conform to the following:

NOTICE TO SURRENDERED DEFENDANT

You have been surrendered (placed back in jail) by your bondsman. While your bondsman has the right to surrender you, you also have a right to a surrender hearing. You should consult either your private attorney or the public defender regarding your rights. You will be granted a surrender hearing within seventy two (72) hours.

If the surrendered defendant is not present but in the custody of the Metropolitan Sheriff, the Judicial Commissioner shall deliver the "Notice to Surrendered Defendant" to the Metropolitan Sheriff who shall promptly deliver the notice to the surrendered defendant.

4. After the Judicial Commissioner signs the certified copy of the surrendered defendant's bond, the professional bondsman shall take that certified copy of the bond to the Criminal Court Clerk's bond office currently located in the Criminal Justice Center.
5. The Clerk of the Criminal Court Clerk's bond office shall retrieve the warrant(s) pursuant to which the certified copy of bond was written and

docket the surrendered defendant for a surrender hearing. This surrender hearing shall be set on the next Jail Docket which will immediately be heard prior to the beginning of the regular Jail Docket.

6. The surrendering professional bondsman shall be present at the surrender hearing in order to state to the Court the reason(s) for the surrender.
7. If the Court finds that there is good cause for the surrender of the defendant, the Court shall sign the certified copy of the bond noting the Court's acceptance of the surrender. The Court-signed certified copy of bond shall remain with the warrant.
8. The clerk shall make two (2) copies of the Court-signed certified copy of bond. Both copies shall be given to the surrendering professional bondsman. The surrendering professional bondsman may keep one (1) copy. The remaining copy shall be taken by the surrendering professional bondsman and given to the Metropolitan Sheriff.

12.03 Policy for Arrest Warrant

Reserved.

12.04 Information Intake Sheets

An information sheet entitled "Prosecution Information Sheet" must be completed by all prosecutors before a warrant can issue and must be attached to the warrant. This form is provided to the prosecutor by the Judicial Commissioner, and it shall be the duty of the Commissioner to assure that all information has been completed on this form. This form must be completed before a Domestic Violence Warrant may issue.

RULE 13. INTERPRETERS

13.01 Interpreters

Hearing or language interpreters will be provided for the Criminal Docket proceedings if sufficient notification time is allowed prior to the proceeding.

Interpreters will be present thirty (30) minutes prior to the scheduled court appearance.

Cases involving an interpreter will be heard at the beginning of the docket

providing the interpreter is prepared for trial by that time.

13.02 Hearing Impaired Persons Brought into Night Court

Hearing-impaired persons who are brought into Night Court for any reason must be informed that they may contact an interpreter to be present during their proceedings. The Judicial Commissioner on duty shall provide said hearing-impaired persons with a listing of applicable phone numbers for contacting interpreters or, in the alternative, the Judicial Commissioner on duty shall immediately notify an interpreter that a hearing impaired person is present in Night Court.

RULE 14. NO-SMOKING POLICY

14.01 General Policy

Pursuant to Metropolitan Ordinance No. 094-1035, smoking is prohibited in public buildings.

RULE 15. FORFEITURE/PROPERTY SEIZURE WARRANTS

15.01 Policy

Pursuant to Tennessee Code Annotated, Sec. 40-33-204, all probable cause hearings for the issuance of a forfeiture/property seizure warrant will be recorded effective October 1, 1998. All forfeiture warrants and taped recordings will be filed and maintained in the Criminal Court Clerk's Office. A certified copy of the recording shall be made available upon request by any party and shall be admissible as evidence.

RULE 16. RESTRICTED DRIVER'S LICENSE

16.01 Policy

All requests for issuance of a restricted driver's license shall be initiated through the Criminal Court Clerk's Office effective October 1, 1998. All persons must pay all costs before he or she is eligible to obtain a restricted driver's license. All paperwork and files relating to restricted driver's license shall be maintained in the Criminal Court Clerk's Office.

CIVIL RULES

RULE 1. APPLICABILITY AND SUSPENSION OF RULES

1.01 Former Rules Void

All former rules of local practice except as readopted herein are void.

1.02 Applicability

Each rule is applicable in all General Sessions Court proceedings in Davidson County, Tennessee. Each rule is applicable in all types of cases unless otherwise indicated by a particular rule.

1.03 Suspension of Rules

Whenever the Court determines that justice requires it, the Court may suspend any of these rules.

RULE 2. APPEARANCE OF COUNSEL

2.01 Counsel of Record; Entry of Appearance

Counsel must be licensed in Tennessee in order to practice law or represent others. A non-licensed person will not be permitted to represent anyone else in our courts.

All counsel who have entered an appearance in a case will be counsel of record. Counsel shall enter an appearance at the earliest practicable time by notifying opposing counsel and the clerk's office.

2.02 Withdrawal of Counsel

Prior to entry of a judgment or disposition in General Sessions Court, no attorney shall be allowed to withdraw except for good cause and by leave of court upon motion after notice to his/her client and opposing counsel or party if without counsel.

2.03 Conduct of Counsel

During trial, counsel shall not exhibit familiarity with witnesses or opposing counsel and shall not use first names for adults. Counsel, parties and witnesses shall be expected to conduct themselves with appropriate decorum at all times in the courtroom.

When addressing the Court, counsel shall introduce herself/himself to the court.

Counsel shall stand while examining witnesses, addressing the court, or making objections.

Counsel who anticipate being late for court shall promptly notify the clerk of the court and the opposing party or counsel.

RULE 3. FILING AND SERVICE OF PAPERS

3.01 Filing Companion or Third-Party Civil Cases

Upon the filing of any civil action which is related to a pending action in General Sessions Court (e.g., cross warrant to third party complaint), the party filing such companion case shall note that the new warrant is a companion case to a pending General Sessions case. All companion or third-party cases shall be consolidated for trial with the original action.

3.02 Filing of Briefs or Memoranda of Law

All post-hearing briefs or memoranda of law shall be filed with the clerk of the court, and a copy shall be delivered to the Judge in open court or in the General Sessions office in the Courthouse to the Judge before whom the case is pending and a copy contemporaneously mailed to the opposing counsel or party.

RULE 4. TRIAL CALENDAR

4.01 Docket Calls

At the first call of the civil docket, in the absence of the trial judge, the

courtroom deputy is authorized to call the docket to determine which parties are present and ready for trial. All cases requiring entry of a default judgment, a dismissal for nonappearance of a party, or resolution of a disputed matter, including a request for a continuance where the opposing party opposes such request, shall be reserved for action by the trial judge. At the conclusion of the docket call, the courtroom deputy shall announce a recess and advise those present in the courtroom of the opportunity to discuss settlement with the opposing party or lawyer either on their own or with help of the court-appointed mediator; the courtroom deputy shall further advise those present that they are not required to settle their case and that they will be given a trial if they are unable to agree on a settlement. Then, the courtroom deputy shall give the court-approved mediator the opportunity to inform those present about mediation services available to them prior to proceeding with their trials.

When a case is dismissed without a trial for want of prosecution, said dismissal shall be without prejudice to either party's right to bring it again.

4.02 Trial of Cases

After the commencement of the trying of civil actions, cases awaiting trial may be transferred among the civil courtrooms to facilitate the most efficient use of resources, and to minimize inconvenience and delay to litigants. All civil courtrooms shall remain in session and available to try cases until all cases awaiting trial on that morning's docket have commenced trial.

RULE 5. SETTING CASES

5.01 Setting of Cases

Cases shall be tried on the date they are set on the court's docket unless, for good cause shown or upon agreement of the parties, the court resets them for trial at a later date or continues them indefinitely. In civil actions the Court may liberally grant a continuance on the first setting of a case or on the first setting after an indefinite continuance.

RULE 6. CONTINUANCES

6.01 Continuances

Civil cases which have been continued indefinitely shall only be reset for trial and placed on the court's docket by the clerk upon the agreement of the parties or after written notice to the opposing party 21 days in advance. When resetting such cases by agreement, an original agreed order signed by both counsel or parties, signature by agreement permitted, shall be filed with the clerk and copies sent to all interested counsel and parties, and a copy shall be forwarded to opposing counsel or the opposing party.

Alternatively, a case may be reset by agreement by sending a letter to the clerk specifically stating that the case is being reset by agreement and sending a copy of the letter to the opposing party or attorney.

6.02 Multiple Continuances

After a civil case has been set on the court's docket three times and has been continued, whether by agreement or for good cause, the case shall be tried or continued indefinitely and taken off the court's docket and shall be reset on the docket only upon notice or agreement of the parties in writing, as set out in Rule 6.01. When a case is continued indefinitely, all parties and counsel are expected to notify the clerk and opposing party or counsel of any change in their mailing address.

6.03 Detainer Warrants

Detainer warrant cases which have been continued indefinitely shall be reset on the docket after giving notice in writing to the opposing party seven (7) calendar days in advance of the proposed docket.

RULE 7. NONSUITS

7.01 Nonsuits

When a defendant satisfies a civil judgment prior to the court date by paying the monies into the clerk's office and the plaintiff's attorney takes a nonsuit, the plaintiff's attorney shall prepare an order entering formal written notice of nonsuit and requesting disbursement of funds.

RULE 8. DISMISSALS

8.01 Slow Pay Motions

When the moving party on a slow pay motion fails to answer at the first call of the docket, such motion shall be subject to dismissal at the expiration of 20 minutes after the commencement of the docket call.

RULE 9. NEGOTIATIONS AND SETTLEMENTS

9.01 Settlement Discussions

At the end of the first docket call, all parties and attorneys shall be allowed a brief opportunity to discuss possible settlement of their cases before trial, either on their own or with the help of the court-appointed mediator. The court shall advise those present in the courtroom of the opportunity to discuss settlement with the opposing party or the opposing lawyer. Additionally, the court shall advise those present that they may pursue settlement discussions in mediation conducted by the court-appointed mediator. The court shall also advise those present that a trial will be given to them if the parties or the lawyers are not able to agree on a settlement and that they are not required to settle their cases. Then, the court shall give the court-approved mediator the opportunity to inform those present about the mediation services available to them prior to proceeding with their trials. Mediators are not provided or paid for by the court in civil matters.

9.02 Judgments

All judgments which contain more than a single element must list damages and attorney's fee separately before the total.

(Reserved for further provisions regarding itemization of elements of default judgments).

9.03 Minor Settlements

In all cases where the parties propose to settle a personal injury claim brought on behalf of a minor, the Court shall conduct a chambers hearing at which the minor and his/her guardian are present. At such hearing, plaintiff's counsel shall provide the Court with documentation reflecting the medical expenses incurred in connection with the claim, and describing the minor's present medical condition.

RULE 10. DOCKET INFORMATION

10.01 Civil Dockets

Civil dockets are currently heard Monday through Friday at 9:00 a.m. in Courtrooms II, III, and IV on the Second Floor, Stahlman Building, 211 Union Street, Nashville, Tennessee.

RULE 11. INTERPRETERS

11.01 Interpreters in Civil Court

Interpreters are not provided or paid for by the court in civil matters.

RULE 12. NO SMOKING POLICY

12.01 No Smoking Policy

Pursuant to Metropolitan Ordinance No. 094-1035, smoking is prohibited in public buildings.

ORDER ADOPTING RULES

These Local Rules of Practice are hereby adopted for the Metropolitan General Sessions Court for Davidson County and will take effect November 1, 1998.

JUDGE GALE B. ROBINSON
Division I

JUDGE WILLIAM E. HIGGINS
Division VII

JUDGE MARK J. FISHBURN
Division II

JUDGE LEON RUBEN
Division VIII

JUDGE WILLIAM J. FAIMON
Division III

JUDGE SUE MCKNIGHT EVANS
Division IX

JUDGE GLORIA A. DUMAS
Division IV

JUDGE CASEY E. MORELAND
Division X

JUDGE JOHN P. BROWN

JUDGE JOHN AARON HOLT

Division V

Division XI

JUDGE MICHAEL F. MONDELLI
Division VI